KATZ, J., with whom ROGERS, C. J., and McLACHLAN, J., join, dissenting. The majority concludes that a second conviction for operating a motor vehicle while under the influence of intoxicating liquor or drugs in violation of General Statutes § 14-227a[1] must constitute a felony because it interprets the terms of that statute to dictate such a conclusion and because it deems textual and extratextual evidence to indicate that the legislature intended such a breach[2] to be treated as a serious offense. If these were the only sources to consider, I might be inclined to agree. The Penal Code, however, provides an exception to the definition of a criminal offense for "motor vehicle violations," and the *only* interpretation of that exception that renders the entire scheme harmonious is one under which § 14-227a falls under that exception. Rather than apply this fundamental principle of statutory construction, however, the majority embraces a construction that essentially renders the exception meaningless. Consistent with prior appellate case law, I would conclude that the statutory text, the legislative history, and related statutes compel the conclusion that the "motor vehicle violation" exception refers to any breach of a motor vehicle law.[3] Therefore, under what I view to be the proper construction of that exception, a breach of § 14-227a falls within that exception, and thus, cannot not be considered an offense. Accordingly, I would conclude that a second qualifying violation of § 14-227a cannot constitute a felony.

This appeal turns on the meaning of the "motor vehicle violation" exception to the definition of " 'offense' " under General Statutes § 53a-24 (a),[4] a question of statutory interpretation over which we exercise plenary review. *Ziotas* v. *Reardon Law Firm, P.C.*, 296 Conn. 579, 587, 997 A.2d 453 (2010). "When construing a statute, [o]ur fundamental objective is to ascertain and give effect to the apparent intent of the legislature. . . . [General Statutes] § 1-2z directs us first to consider the text of the statute itself and its relationship to other statutes. If, after examining such text and considering such relationship, the meaning of such text is plain and unambiguous and does not yield absurd or unworkable results, extratextual evidence of the meaning of the statute shall not be considered. . . .

"[W]e are [also] guided by the principle that the legislature is always presumed to have created a harmonious and consistent body of law . . . . [T]his tenet of statutory construction . . . requires us to read statutes together when they relate to the same subject matter . . . . Accordingly, [i]n determining the meaning of a statute . . . we look not only at the provision at issue, but also to the broader statutory scheme to ensure

the coherency of our construction." (Internal quotation marks omitted.) *Hartford/Windsor Healthcare Properties, LLC* v. *Hartford*, 298 Conn. 191, 197–98, 3 A.3d 56 (2010).

Interpreting the statutory scheme at issue in the present case involves the consideration of several distinct, but related, statutory provisions. To determine whether a conviction under § 14-227a can constitute a felony, I begin with the Penal Code's definition of that term. A felony is defined as "[a]n *offense* for which a person may be sentenced to a term of imprisonment in excess of one year . . . ." (Emphasis added.) General Statutes § 53a-25 (a). The Penal Code instructs that "[a]ny offense defined in any other section of the general statutes which, by virtue of an expressly specified sentence, is within th[is] definition . . . [is] deemed an unclassified felony." General Statutes § 53a-25 (c). Because § 14-227a (g) (2) provides that a second conviction under that statute within ten years can be punished by a term of imprisonment of "not more than two years," it undoubtedly meets the incarceration requirement of a felony. Thus, the issue that must be resolved, however, is whether a breach of § 14-227a is an "offense" as that term is defined under the Penal Code.

The term offense is defined in relevant part as "any crime or violation which constitutes a breach of any law of this state or any other state, federal law or local law or ordinance of a political subdivision of this state, for which a sentence to a term of imprisonment or to a fine, or both, may be imposed, *except one that defines a motor vehicle violation or is deemed to be an infraction*. The term 'crime' comprises felonies and misdemeanors. . . ." (Emphasis added.) General Statutes § 53a-24 (a). Thus, an offense is either a crime (felony or misdemeanor) or a violation, unless the breach constitutes a motor vehicle violation or is deemed an infraction. In addition to providing a definition of felony, the Penal Code also defines the terms misdemeanor, violation and infraction.

Turning to the definitions provided, crimes are distinguished by a potential term of imprisonment. See General Statutes § 53a-25 (a) (felony); General Statutes § 53a-26 (a) (misdemeanor).[5] By contrast, "[a]n offense, for which the only sentence authorized is a fine, is a violation unless expressly designated an infraction." General Statutes § 53a-27 (a). A breach of § 14-227a is not designated an infraction, and it is not a violation under § 53a-27 because it carries varying potential terms of imprisonment depending on whether it is a first or repeat offense. See General Statutes § 14-227a (g); see also footnote 1 of this dissenting opinion. Therefore, a breach of § 14-227a is either a crime that falls within the definition of offense under § 53a-24 (a), or a motor vehicle violation that falls within the exception to that definition.

The phrase "motor vehicle violation" is not defined in the Penal Code or elsewhere in the General Statutes. In the absence of a statutory definition, it would appear, at first blush, that the legislature intended to incorporate the definition of "violation" into the phrase "motor vehicle violation." Applying that definition would limit the exception to those motor vehicle laws that are punishable by fine only. See General Statutes § 53a-27 (a). Although the majority would adopt an additional limitation to that exception, such that it only would encompass those breaches that have been designated expressly as "motor vehicle violations," by its own admission, such an interpretation would create a null set of "motor vehicle violations"[6] and, accordingly, render the exception superfluous. Undoubtedly, such a result must be rejected, as it contravenes settled principles of construction. See *Foley* v. *State Elections Enforcement Commission*, 297 Conn. 764, 792, 2 A.3d 823 (2010) ("[i]n construing statutory language, '[n]o part of a legislative enactment is to be treated as insignificant or unnecessary, and there is a presumption of purpose behind every sentence, clause or phrase . . . and no word in a statute is to be treated as superfluous' "); see also *Vibert* v. *Board of Education*, 260 Conn. 167, 176, 793 A.2d 1076 (2002) (every word in statute presumed to have meaning).

Putting the majority's construction aside, I recognize that if we were to incorporate the definition of "violation" under § 53a-27 (a) into the term "motor vehicle violation," such a construction would not render the exception superfluous, as it would limit application to numerous motor vehicle laws that are punishable by fine only. See General Statutes § 53a-27 (a). Under that view, a breach of § 14-227a would not fall into the exception to the definition of a criminal offense. Indeed, § 14-227a uses the term "criminal prosecution . . . ."[7] See General Statutes § 14-227a (b) and (e).

"It is of course true that, when a statutory definition applies to a statutory term, the courts must apply that definition. The question in the present case, however, is whether the statutory definition applies in the first instance." *Commissioner of Environmental Protection* v. *Mellon*, 286 Conn. 687, 692–93 n.7, 945 A.2d 464 (2008). In considering whether the definition of "violation" under § 53a-27 (a) applies, I am mindful that the "legislature, in amending or enacting statutes, always [is] presumed to have created a harmonious and consistent body of law . . . ." (Internal quotation marks omitted.) *Thomas* v. *Dept. of Developmental Services*, 297 Conn. 391, 404, 999 A.2d 682 (2010). I also am mindful that, although the legislature has provided a definition of the term "violation," it also has instructed that "[t]he provisions of [title 53a, the Penal Code] shall apply to any offense defined in this title or the general statutes, unless otherwise expressly provided *or unless the con-*

text otherwise requires . . . ." (Emphasis added.) General Statutes § 53a-2. A review of the Penal Code and other related statutory provisions reveals that the legislature consistently has used the phrase "motor vehicle violation" in a manner requiring a broader interpretation than the Penal Code's definition of "violation."

I begin with the definition of " 'offense' " in subsection (b) of § 53a-24, which sets forth a limitation on the motor vehicle exception in subsection (a) of § 53a-24.[8] Section 53a-24 (b) provides in relevant part: "Notwithstanding the provisions of subsection (a) of this section, the provisions of sections 53a-28 to 53a-44, inclusive, shall apply to motor vehicle violations. . . ." A review of the enumerated provisions, which concern sentencing, reveals that the vast majority of these provisions apply only to convictions with terms of imprisonment.[9] If the legislature had intended the phrase "motor vehicle violation" to refer to breaches punishable by fine only, it seems unlikely that it would have referred to such a broad range of inapplicable provisions. If the term "motor vehicle violation" is construed to include breaches punishable by a term of imprisonment, I avoid rendering most of these provisions superfluous. See *AvalonBay Communities, Inc.* v. *Orange*, 256 Conn. 557, 588–89, 775 A.2d 284 (2001) ("It is a basic tenet of statutory construction that the legislature did not intend to enact meaningless provisions. . . . Accordingly, care must be taken to effectuate all provisions of the statute." [Citation omitted; internal quotation marks omitted.]).

Significantly, one of the sections in the enumerated range specifically refers to "a motor vehicle violation for which a sentence to a term of imprisonment may be imposed . . . ." General Statutes § 53a-28 (e) (2) (addressing conditions of sentence of probation).[10] Identical language appears in the only other provisions in the Penal Code in which the legislature has used the term "motor vehicle violation . . . ." General Statutes § 53a-173 (a)[11] (addressing failure to appear in second degree); General Statutes § 53a-222a[12] (addressing violation of conditions of release in second degree). Moreover, the legislature has used similar "for which a sentence to a term of imprisonment may be imposed" language in the criminal procedure chapter of the General Statutes when referring to motor vehicle violations. See General Statutes § 54-56*l* (a) ("[t]here shall be a supervised diversionary program for persons with psychiatric disabilities accused of a crime or crimes or a motor vehicle violation or violations for which a sentence to a term of imprisonment may be imposed, which crimes or violations are not of a serious nature"); see also General Statutes § 54-130a (f) (conferring on board of pardons and paroles, in "the case of any person convicted of a violation for which a sentence to a term of imprisonment may be imposed, the board shall have authority to grant a pardon, conditioned, provisional or

absolute, in the same manner as in the case of any person convicted of an offense against the state").[13] That phrase is similarly treated in General Statutes § 51-193u (a), which authorizes a magistrate to handle "[c]ases involving motor vehicle violations, excluding alleged violations of sections 14-215, 14-222, 14-222a, 14-224 and 14-227a and any other motor vehicle violation involving a possible term of imprisonment . . . ." In sum, my review has yielded numerous statutes that consistently refer to motor vehicle violations punishable by a term of imprisonment. Notably, such a violation could not exist under the interpretation adopted by the majority. In my view, this usage evidences a clear legislative intent that the term "motor vehicle violation" must be given a broader meaning than one that simply incorporates the definition of violation—an offense punishable only by a fine.

Consistent with the legislature's express acknowledgment that a motor vehicle violation can be punished by a term of imprisonment, the phrase "motor vehicle violation" would appear to incorporate the *common* meaning of "violation," rather than the statutory definition in § 53a-24. A violation is, in general parlance, "[a]n infraction or breach of the law; a transgression"; Black's Law Dictionary (9th Ed. 2009); or "the act of violating"; Merriam-Webster's Collegiate Dictionary (10th Ed. 1995); and "violate," in turn, is defined as "break[ing], disregard[ing] (the law)." Merriam-Webster's Collegiate Dictionary (9th Ed. 1987). Under that meaning, a breach of § 14-227a would constitute a "motor vehicle violation," as it undoubtedly is a violation of a motor vehicle law. Thus, applying that rubric, a breach of § 14-227a would fall within the motor vehicle violation exception to " 'offense' " under § 53a-24 (a) and, thus, could not be a crime, either a felony or a misdemeanor.

I note that such a conclusion would be bolstered by two other distinctions apparent in the General Statutes. First, there are several provisions in which the legislature has drawn a distinction between a person convicted of a crime and a person convicted of a violation of § 14-227a or another motor vehicle law that carries a potential term of imprisonment. See General Statutes § 14-44 (b) (limiting commercial operator's license to person who "[h]as no criminal record [or] has not been convicted of a violation of subsection [a] of section 14-227a within five years of the date of application"); General Statutes § 54-56e (b) (2) (conferring discretion on court to invoke accelerated rehabilitation program with respect to defendant who, inter alia, "has no previous record of conviction of a crime or of a violation of section 14-196, subsection [c] of section 14-215, section 14-222a, subsection [a] of section 14-224 or section 14-227a"); General Statutes § 54-143 (a) (imposing fees on persons "convicted of a felony," "convicted of a misdemeanor or convicted under sections 14-219, 14-222, 14-224, 14-225 and 14-227a"). Second, a review of

chapter 14 of the General Statutes governing motor vehicles reveals eleven statutes in which, unlike § 14-227a, the legislature expressly has designated breaches as misdemeanors or felonies.[14] Although it is possible that the legislature intended a breach of § 14-227a to constitute an unclassified felony or misdemeanor; see General Statutes §§ 53a-25 (c) and 53a-26 (c); such a conclusion is unlikely in light of the legislature's frequent practice of designating breaches of the motor vehicle code as misdemeanors or felonies when it intended such an result.

There is one aspect of the statutory scheme that superficially appears to support the conclusion that a breach of § 14-227a is a crime, but I disagree with the majority's treatment of that provision. Specifically, General Statutes § 53a-40f[15] allows an individual to be designated as a "persistent operating while under the influence felony offender" under specified circumstances, which in turn allows the court to impose a harsher sentence than otherwise would apply. To be so designated, a person must be convicted of either manslaughter in the second degree with a motor vehicle under General Statutes § 53a-56b,[16] a class C felony, or assault in the second degree with a motor vehicle under General Statutes § 53a-60d,[17] a class D felony, and have a prior conviction under either of those offenses *or § 14-227a*. Although the majority argues that the combination of the terms "persistent" and "felony" indicates that the legislature necessarily viewed a prior conviction under § 14-227a as a felony, this construction fails substantively and linguistically. An essential element of both §§ 53a-56b and 53a-60d is that a person must "operat[e] a motor vehicle [while] under the influence of intoxicating liquor or any drug or both," thereby incorporating the conduct prohibited by § 14-227a. A breach of § 14-227a, therefore, properly is viewed as a lesser included offense of §§ 53a-56b and 53a-60d.[18] See *Carpenter* v. *Commissioner of Correction*, 290 Conn. 107, 120, 961 A.2d 403 (2009) (offense deemed lesser included when it would not be "possible to commit the greater offense . . . without having first committed the lesser" [internal quotation marks omitted]). Indeed, to be designated as a "persistent operating while under the influence felony offender" under § 53a-40f, an individual must have been convicted of operating a motor vehicle while under the influence at least twice—the first occasion could be under *either* § 14-227a (a) or § 53a-56b or § 53a-60d—but, on the second occasion, *must* have committed one of two specific felonies. The "persistent" designation is attached to the *conduct*—operating under the influence, an element shared by all the offenses—not the *felony designation*. Indeed, because a first offense under § 14-227a carries a maximum term of imprisonment that would render it a misdemeanor, if subject to classification as a criminal offense, it could not under such circumstances consti-

tute a felony.

In sum, the majority's interpretation creates contradictions and inconsistencies within the Penal Code and throughout the General Statutes that my interpretation wholly avoids. "We do not mechanistically apply [P]enal [C]ode definitions to a statute but interpret the language in a manner that implements the statute's purpose." *State* v. *Harrison*, 228 Conn. 758, 763, 638 A.2d 601 (1994); see *In re William D.*, 284 Conn. 305, 312, 933 A.2d 1147 (2007) ("[a]lthough we agree that the definition of 'child' under [General Statutes] § 46b-120 [1] could be applied literally to [General Statutes] § 46b-141 [b] to support the respondent's construction, we eschew such a mechanistic application of the definition given the internal inconsistencies and consequences that would ensue in clear contravention of the broader purposes of the delinquency scheme").

I also note that this court is not writing on a blank slate in determining whether breaches of motor vehicle laws that carry a term of imprisonment constitute criminal offenses under the Penal Code.[19] Although neither this court nor the Appellate Court squarely has addressed the present question in a dispositive manner, both courts have dealt with closely related issues in past cases. In *State* v. *Kluttz*, 9 Conn. App. 686, 689, 521 A.2d 178 (1987), the Appellate Court considered whether a breach of General Statutes § 14-222a, negligent homicide with a motor vehicle, was a lesser included offense of General Statutes § 53a-57, misconduct with a motor vehicle. The court concluded that, "[a]lthough we agree with the defendant that negligent homicide with a motor vehicle is a 'motor vehicle violation' within the meaning of . . . § 53a-24 and therefore is not an 'offense' or 'crime' within the meaning of that statute . . . we hold that it is an offense for purposes of the lesser included offense doctrine." (Citation omitted.) Id., 690. Consistent with my prior observation in this opinion; see footnote 9 of this opinion and related text; the Appellate Court noted that an interpretation of § 14-222a that did not deem a conviction of that statute to fall within the "motor vehicle violation" exception to the definition of offense would render superfluous the limitation to that exception in § 53a-24 (b). Thereafter, in *State* v. *Brown*, 22 Conn. App. 108, 109, 575 A.2d 699, cert. denied, 216 Conn. 811, 580 A.2d 61 (1990), the Appellate Court held that a violation of § 14-227a "constituted a violation of that condition of [the defendant's] probation order forbidding [the defendant] from violating 'any criminal law' of this state." Prior to reaching that conclusion, however, the Appellate Court, on the basis of the analysis in *Kluttz*, concluded that "for purposes of . . . § 53a-24 (a), § 14-227a is a motor vehicle violation and not a 'crime.' " Id., 111. Although this conclusion squarely addresses the question in the present case, this statement could be viewed either as dicta or an essential predicate to

the ultimate holding.[20]

In subsequent decisions, however, this court has assumed the correctness of the predicate conclusions in *Kluttz* and *Brown* and, thus, has treated breaches of motor vehicle statutes with potential terms of imprisonment as not being classified as criminal offenses under the Penal Code. I have, therefore, focused my inquiry on whether convictions under such motor vehicle statutes nonetheless could be treated as crimes for other purposes. In *State* v. *Guckian*, 226 Conn. 191, 193, 627 A.2d 407 (1993), this court considered whether a violation of General Statutes § 14-215 (c), operating a motor vehicle with a suspended license or registration, constituted a "crime" for purposes for eligibility for substance abuse treatment under General Statutes § 17a-656, now General Statutes § 17a-699. In answering that question in the affirmative, this court nonetheless relied favorably on the Appellate Court's decision in *Brown* and assumed that § 14-227a "is a motor vehicle violation." Id., 201. Similarly, in *State* v. *Harrison*, supra, 228 Conn. 760, this court considered whether a breach of § 14-227a constituted an "offense" within the meaning of General Statutes § 54-1f (a), which authorizes police officers to continue pursuit of an offender outside of their jurisdiction in order to effectuate an arrest. In concluding that it did, the court noted that "application of § 54-1f (a) has not been restricted to felonies or misdemeanors as defined in the [P]enal [C]ode, and thus may be applied to motor vehicle violations." Id., 764. Accordingly, this court, sub silentio, assumed that a breach of § 14-227a is a motor vehicle violation, not a criminal offense. In *State* v. *Trahan*, 45 Conn. App. 722, 733–34, 697 A.2d 1153, cert. denied, 243 Conn. 924, 701 A.2d 660 (1997), the Appellate Court expressly adopted that assumption when holding that a violation of § 14-227a constituted a violation of the defendant's accelerated rehabilitation, noting in the process: "We have previously determined that [driving while intoxicated] does not constitute an offense as defined by § 53a-24."[21]

Although construing the "motor vehicle violation" exception to the definition of offense in § 53a-24 to mean a breach of *any* motor vehicle law, irrespective of the penalty attached, is the only construction consistent with both these cases and the body of our General Statutes, I nevertheless consider whether there is anything in the genealogy or legislative history of §§ 53a-24 and 14-227a to undermine such a conclusion. I conclude that there is not. Section 14-227a, or its predecessors, predated the enactment of § 53a-24 and the rest of the Penal Code. At the time the Penal Code was enacted, the treatment of persons who were convicted of driving while intoxicated was fundamentally different than it is today. Although such conduct always had been punishable by some term of imprisonment,[22] for many years, it carried no mandatory term of imprisonment. By 1930,

it was "a matter of common knowledge that some city, town and borough courts are imposing fines, or fines with a suspended jail sentence, in many cases involving second, third and fourth offenses, rather than a jail sentence with a possibility of an appeal and loss of fine to city or town." (Internal quotation marks omitted.) *Kelly* v. *Dewey*, 111 Conn. 281, 289, 149 A. 840 (1930). The continuation of this pattern of suspending sentences for such conduct is evidenced by the fact that, when the legislature finally imposed a mandatory sentence for a breach of § 14-227a in 1980, it prescribed only a two day mandatory sentence for second breaches, and further provided that the two day sentence could be served on a weekend. Public Act 1980, No. 80-438, § 3. This history indicates that, at the time the Penal Code was enacted and "motor vehicle violations" were excepted from the classification of criminal offenses, the dominant opinion of breaches of § 14-227a was that such conduct was not particularly reprehensible, and certainly was not considered "criminal."[23] Indeed, it is easy to forget that it was not until the 1980s that the organization Mothers Against Drunk Driving was formed.[24]

The purpose of the classification system set forth in §§ 53a-24 through 53a-27 was, "[a]ccording to the drafters of the [Penal] Code . . . 'to eliminate the kind of irrationally disparate sentences which often existed in prior law between essentially similar serious crimes, and irrationally similar sentences between crimes of greatly varying seriousness, and to substitute therefore a system which will, as nearly as is possible, treat essentially the same similarly serious kinds of conduct.' " J. Gittler, Connnecticut Penal Code Reference Manual (1971) p. 2-1. There is no apparent connection between that purpose and the classification of breaches under the motor vehicle laws as misdemeanors or felonies.

The commentary to § 53a-24 is not particularly illuminating.[25] Although the commentary to subsection (a) of § 53a-24 instructs that "violation" should be read "in conjunction" with the § 53a-27 definition of that word, the term "violation," without further descriptive terms, is used three times in the definition of "offense," and the commentary does not expressly state that this definition similarly applies to the term "motor vehicle violation." Indeed, the commentary to subsection (a) does not even refer to the motor vehicle violation exception. That exception is discussed in the commentary to subsection (b) of § 53a-24. In considering the meaning of that commentary on the precise question before us, Judge David Borden, who previously had been the executive director of the commission to revise the criminal statutes and one of the drafters of the Penal Code, stated, when writing for the Appellate Court: "[T]he commentary to . . . § 53a-24 (b) is less than a model of clarity and contributes to the confusion of whether a motor vehicle violation is an 'offense.' See Commission to Revise the

Criminal Statutes, Penal Code Comments, [Conn. Gen. Stat. Ann. (West) § 53a-24, comment]. The first three sentences of the commentary point toward the conclusion that a motor vehicle violation is not an 'offense.' The fourth sentence lends some support to the contrary conclusion, namely, that it is an 'offense.' In this instance, we hesitate to draw any firm inferences as to legislative intent from this Delphic commentary." *State* v. *Kluttz*, supra, 9 Conn. App. 694 n.8. I agree with Judge Borden's characterization and similarly decline to rely on this ambiguous commentary to reach a conclusion that would conflict with numerous related statutes, which are far more persuasive interpretive tools.

The majority suggests that legislative debates over various amendments to § 14-227a and related provisions support the conclusion that a breach of § 14-227a constitutes a crime.[26] While the majority relies on the fact that several legislators have referred to driving while intoxicated as a "crime" or a "criminal" act, I note that legislators' comments during debate can be linguistically imprecise, or can rely on a term's common meaning rather than a legal or statutory definition. Indeed, speeding has been referred to as a "crime" in legislative debates, even though it is only punishable by a fine and license suspension, and is, in the case of a first offense, expressly designated as an "infraction."[27] See General Statutes §§ 14-111b and 14-219. As this court previously has recognized, "[t]he term 'crime' is ordinarily so broadly defined, however, that its common meaning is not instructive in determining whether the statutory term 'crime' includes motor vehicle violations." *State* v. *Guckian*, supra, 226 Conn. 198. The common meaning of "crime" is simply "an act or the commission of an act that is forbidden . . . ." Merriam-Webster's Collegiate Dictionary (10th Ed. 1995).

Although the majority focuses on the generic use of the term "crime," it fails to give any consideration to the fact that the legislators never referred to a breach of § 14-227a as a felony. During debate over No. 99-255, § 1, of the 1999 Public Acts, the amendment to § 14-227a that increased the potential sentence for a second qualifying offense into a range where for the first time it would satisfy the incarceration requirements of a felony, the amendment's sponsor stated that his proposal "substantially increases the penalties both in terms of financial penalties, incarceration, and [counseling] programs for repeat offenders." 42 S. Proc., Pt. 9, 1999 Sess., p. 2926, remarks of Senator Robert Genuario. In the course of his detailed discussion of the increased penalties for repeat offenders under § 14-227a, Senator Genuario emphasized the explicitly listed statutory consequences, but at no point mentioned any altered criminal status or any additional collateral consequence. While debate over the amendment was limited, at each point at which the amendment was debated in either legislative chamber, at least one legislator

spoke about the increased penalties for repeat offenders, but no legislator ever discussed a change in criminal status, mentioned any collateral consequences, or even uttered the word felony. Especially in light of the overwhelming textual evidence to the contrary, I simply cannot accept that the legislature would have intended to establish a new felony under our General Statutes without the barest acknowledgment of that decision and its consequences.[28] I note, additionally, that at the time of this amendment, the decisions in *Kluttz*, *Brown*, and their progeny had all been issued. If the legislature had disagreed with those decisions' apparent conclusions that § 14-227a did not define a crime, consistent with our presumption that "the legislature is mindful of judicial construction relevant to any legislation it enacts"; *Murach* v. *Planning & Zoning Commission*, 196 Conn. 192, 200 n.14, 491 A.2d 1058 (1985); it stands to reason that, in the course of amending § 14-227a, the legislature would also have amended that statute to reflect its desire that it be classified as a criminal offense under § 53a-24.

It is important to note that the only consequence flowing from the decision in the present case is whether a second qualifying conviction under § 14-227a would impose on the plaintiff both the stigma of being designated a convicted felon and, more significantly, a number of other collateral consequences that attach to such a designation. Unlike the appropriateness of attaching such consequences to crimes of violence or moral turpitude, a review of the collateral consequences of having been convicted of a felony leads us to conclude that all but two of those consequences would seem to be inappropriately applied to an individual solely on the basis of a qualifying conviction under § 14-227a.[29] Such a designation would preclude the plaintiff from employment in certain specified fields,[30] as well as impact his ability to be employed in unenumerated professions that exclude convicted felons from their ranks. Notwithstanding the extreme seriousness of a breach of § 14-227a, these consequences, like many of the other collateral consequences attached to conviction for a felony, would seem to be inappropriate for even multiple breaches of § 14-227a.[31]

I note, finally, that, in reaching my conclusion that a breach of § 14-227a is a "motor vehicle violation," and accordingly cannot be classified as a crime generally or a felony specifically, I am mindful of the legislature's intent to treat driving while intoxicated as a serious problem that calls for penalties commensurate with the potential harm caused by such actions. As one legislator aptly remarked, the legislative intent of § 14-227a is to "[impose] severe and appropriate penalties on those individuals who insist on endangering innocent people by drinking and driving"; 42 S. Proc., supra, p. 2929, remarks of Senator Catherine Cook; and to give "those individuals who do not fear the penalties for driving

while intoxicated in today's law . . . something to fear. Something to make them think twice about what they stand to lose if they embrace drunk driving as a lifestyle.'' Id., pp. 2928–29, remarks of Senator Cook. Thus, the majority's focus on the view that members of the General Assembly eventually came to hold about the seriousness of a breach of § 14-227a misunderstands the narrow focus of the question before us. Giving effect to the legislature's clearly expressed intent in the text of the scheme to deem a violation of § 14-227a to fall within the ''motor vehicle violation'' exception would do nothing to upset the appropriate and strong penalties faced by those who drive while intoxicated. The legislature merely declined to impose the stigma and collateral consequences of a felony conviction upon those individuals. Such a policy determination is exclusively in its province. The clearly expressed legislative intent is not to classify a breach of a motor vehicle law as a crime under the Penal Code unless expressly designated as such. Accordingly, I would affirm the judgment of the trial court concluding that the defendant, the commissioner of public safety, improperly has placed the notation ''convicted felon'' on the criminal records of the plaintiff, Ricky A. McCoy, and other similarly situated individuals who have received a second conviction of violating § 14-227a.

I respectfully dissent.

[1] General Statutes § 14-227a provides in relevant part: ''(a) No person shall operate a motor vehicle while under the influence of intoxicating liquor or any drug or both. A person commits the offense of operating a motor vehicle while under the influence of intoxicating liquor or any drug or both if such person operates a motor vehicle (1) while under the influence of intoxicating liquor or any drug or both, or (2) while such person has an elevated blood alcohol content. For the purposes of this section, 'elevated blood alcohol content' means a ratio of alcohol in the blood of such person that is eight-hundredths of one per cent or more of alcohol, by weight . . . and 'motor vehicle' includes a snowmobile and all-terrain vehicle, as those terms are defined in section 14-379. . . .

''(g) Any person who violates any provision of subsection (a) of this section shall: (1) For conviction of a first violation, (A) be fined not less than five hundred dollars or more than one thousand dollars, and (B) be (i) imprisoned not more than six months, forty-eight consecutive hours of which may not be suspended or reduced in any manner, or (ii) imprisoned not more than six months, with the execution of such sentence of imprisonment suspended entirely and a period of probation imposed requiring as a condition of such probation that such person perform one hundred hours of community service, as defined in section 14-227e, and (C) have such person's motor vehicle operator's license or nonresident operating privilege suspended for one year; (2) for conviction of a second violation within ten years after a prior conviction for the same offense, (A) be fined not less than one thousand dollars or more than four thousand dollars, (B) be imprisoned not more than two years, one hundred twenty consecutive days of which may not be suspended or reduced in any manner, and sentenced to a period of probation requiring as a condition of such probation that such person perform one hundred hours of community service, as defined in section 14-227e, and (C) (i) if such person is under twenty-one years of age at the time of the offense, have such person's motor vehicle operator's license or nonresident operating privilege suspended for three years or until the date of such person's twenty-first birthday, whichever is longer, and be prohibited for the two-year period following completion of such period of suspension from operating a motor vehicle unless such motor vehicle is equipped with a functioning, approved ignition interlock device, as defined in section 14-227j, or (ii) if such person is twenty-one years of age or older

at the time of the offense, have such person's motor vehicle operator's license or nonresident operating privilege suspended for one year and be prohibited for the two-year period following completion of such period of suspension from operating a motor vehicle unless such motor vehicle is equipped with a functioning, approved ignition interlock device, as defined in section 14-227j; and (3) for conviction of a third and subsequent violation within ten years after a prior conviction for the same offense, (A) be fined not less than two thousand dollars or more than eight thousand dollars, (B) be imprisoned not more than three years, one year of which may not be suspended or reduced in any manner, and sentenced to a period of probation requiring as a condition of such probation that such person perform one hundred hours of community service, as defined in section 14-227e, and (C) have such person's motor vehicle operator's license or nonresident operating privilege permanently revoked upon such third offense. For purposes of the imposition of penalties for a second or third and subsequent offense pursuant to this subsection, a conviction under the provisions of subsection (a) of this section in effect on October 1, 1981, or as amended thereafter, a conviction under the provisions of either subdivision (1) or (2) of subsection (a) of this section, a conviction under the provisions of section 53a-56b or 53a-60d or a conviction in any other state of any offense the essential elements of which are determined by the court to be substantially the same as subdivision (1) or (2) of subsection (a) of this section or section 53a-56b or 53a-60d, shall constitute a prior conviction for the same offense . . . ."

Although there have been several changes made to § 14-227a since the time of the relevant proceedings in the present case, those changes are not relevant to this appeal and, consistent with the majority, I refer herein to the current revision of the statutes. See footnote 2 of the majority opinion.

[2] Throughout this dissenting opinion, I use the term "breach" as a generic term to indicate conduct that is prohibited by a given statutory provision. In the interests of clarity, my use of the terms "violation," "infraction," "offense," or their various forms is restricted to the meanings provided in General Statutes §§ 53a-24 through 53a-27.

[3] As noted later in this dissenting opinion, I recognize that the legislature expressly has designated breaches of certain motor vehicle statutes as misdemeanors or felonies. These designations are given their effect under the rule that more specific provisions control over more general ones. *In re Jan Carlos D.*, 297 Conn. 16, 25, 997 A.2d 471 (2010) ("[i]t is a well established principle of statutory construction that specific terms in a statute covering a given subject matter will prevail over the more general language of the same or another statute that otherwise might be controlling" [internal quotation marks omitted]).

[4] General Statutes § 53a-24 provides: "(a) The term 'offense' means any crime or violation which constitutes a breach of any law of this state or any other state, federal law or local law or ordinance of a political subdivision of this state, for which a sentence to a term of imprisonment or to a fine, or both, may be imposed, except one that defines a motor vehicle violation or is deemed to be an infraction. The term 'crime' comprises felonies and misdemeanors. Every offense which is not a 'crime' is a 'violation'. Conviction of a violation shall not give rise to any disability or legal disadvantage based on conviction of a criminal offense.

"(b) Notwithstanding the provisions of subsection (a) of this section, the provisions of sections 53a-28 to 53a-44, inclusive, shall apply to motor vehicle violations. Said provisions shall apply to convictions under section 21a-278 except that the execution of any mandatory minimum sentence imposed under the provisions of said section may not be suspended."

[5] General Statutes § 53a-26 (a) provides: "An offense for which a person may be sentenced to a term of imprisonment of not more than one year is a misdemeanor."

[6] The majority acknowledges in footnote 13 of its opinion that "a review of the other statutes in the motor vehicle chapter reveals that the legislature has not chosen to define a breach of any statute as a motor vehicle violation."

[7] The majority argues that the exclusion of § 14-227a from the "motor vehicle violation" exception also is supported by the fact that § 14-227a refers to the "offense" of operating under the influence. That usage, however, is insufficient to compel any conclusion about legislative intent. When defining the conduct prohibited and punishment prescribed, the motor vehicle chapter often uses the word "offense" as that term is commonly understood, rather than as it is defined under the Penal Code. "[O]ffense" means, generally, "[a] violation of the law"; Black's Law Dictionary (9th Ed. 2009); or "an infraction of law . . . ." Merriam-Webster's Collegiate Dictionary (10th

Ed. 1995).

For example, the motor vehicle provision addressing a failure to stop when signaled by a police officer is referred to as an "offense" and designates a breach of its terms as an "infraction . . . ." General Statutes (Rev. to 2009) § 14-223 (a); see also General Statutes § 14-36 (i) (1) (referring to individual committing first "offense" who shall "be deemed to have committed an infraction"). An offense expressly designated as an infraction, however, expressly is excluded from the definition of offense, as is a "motor vehicle violation."

The majority also relies upon the use of the term "criminal prosecution" in § 14-227a in reaching its conclusion that § 14-227a is a crime. While this reference superficially appears to support the majority's conclusion, the legislature has referred to persons who may be "prosecuted" for breaches of motor vehicle laws that carry no term of imprisonment. See General Statutes § 14-107 (a) (referring to persons who "may be prosecuted jointly or individually for violation of [specified provisions, including ones expressly designated as 'infractions']"); General Statutes § 14-286 (i) (addressing how individual may be "prosecuted" for breach of provision dealing with operation of motorized cycles, provision expressly designated as infraction). Indeed, looking at the context of the term "criminal prosecution" in § 14-227a suggests that the legislature simply may use this term to incorporate certain standards and procedures into the process of seeking a conviction for breach of § 14-227a, rather than implying that the process will be a prosecution for a "crime." Specifically, the reference to such a prosecution is used in the course of establishing evidentiary rules for any proceedings seeking conviction for a breach of § 14-227a.

[8] See footnote 4 of this dissenting opinion for the text of § 53a-24.

[9] As the Appellate Court previously has noted: "General Statutes §§ 53a-28 through 53a-44 are the sections of the [P]enal [C]ode which, inter alia, set out the authorized sentences for the classified and unclassified offenses (i.e., felonies, misdemeanors and violations) and provide for such sentencing mechanisms as probation, conditional discharge and unconditional discharge. [Section 53a-24 (b)] would be rendered meaningless by the state's analysis, since 'motor vehicle violations,' within the meaning of . . . § 53a-24 (a), could only be transgressions carrying a fine. Yet, the purpose of [§ 53a-24 (b)] is to make clear that 'the sentencing principles enumerated in sections 53a-28 to 53a-44, inclusive, shall apply to motor vehicle violations.' Commission to Revise the Criminal Statutes, Penal Code Comments, [Conn. Gen. Stat. Ann. § 53a-24], p. 8. There would be no purpose served by legislatively authorizing the application of sentencing provisions of the [P]enal [C]ode, i.e., suspension of execution of sentences of imprisonment conditioned on terms of probation and conditional discharge, to a 'motor vehicle violation' if a 'motor vehicle violation' consisted only of statutes authorizing punishment by a fine." *State* v. *Kluttz*, 9 Conn. App. 686, 693–94, 521 A.2d 178 (1987).

[10] General Statutes § 53a-28 (e) provides: "When sentencing a person to a period of probation who has been convicted of (1) a misdemeanor that did not involve the use, attempted use or threatened use of physical force against another person or (2) *a motor vehicle violation for which a sentence to a term of imprisonment may be imposed*, the court shall consider, as a condition of such sentence of probation, ordering the person to perform community service in the community in which the offense or violation occurred. If the court determines that community service is appropriate, such community service may be implemented by a community court established in accordance with section 51-181c if the offense or violation occurred within the jurisdiction of a community court established by said section." (Emphasis added.)

[11] General Statutes § 53a-173 (a) provides: "A person is guilty of failure to appear in the second degree when (1) while charged with the commission of a misdemeanor or *a motor vehicle violation for which a sentence to a term of imprisonment may be imposed* and while out on bail or released under other procedure of law, such person wilfully fails to appear when legally called according to the terms of such person's bail bond or promise to appear, or (2) while on probation for conviction of a misdemeanor or motor vehicle violation, such person wilfully fails to appear when legally called for any court hearing relating to a violation of such probation." (Emphasis added.)

[12] General Statutes § 53a-222a (a) provides: "A person is guilty of violation of conditions of release in the second degree when, while charged with the commission of a misdemeanor or *motor vehicle violation for which a*

sentence to a term of imprisonment may be imposed, such person is released pursuant to subsection (b) of section 54-63c, subsection (c) of section 54-63d or subsection (c) of section 54-64a and intentionally violates one or more of the imposed conditions of release." (Emphasis added.)

[13] The legislative history of this provision evidences that the legislature intended for the term "violation" to include motor vehicle violations. Number 07-57, § 1, of the 2007 Public Acts expanded the authority of the board of parole and pardons (board) over "offense[s] against the state" to include "a violation for which a sentence to a term of imprisonment may be imposed . . . ." During debate on the Public Act, one member of the legislature clarified that the expansion of the board's authority would encompass "violations, *for example*, *motor vehicle violations*, which do carry a possible sentence of incarceration." (Emphasis added.) 50 H.R. Proc., Pt. 11, 2007 Sess., p. 3601, remarks of Representative Michael P. Lawlor. These comments evidence that the legislature believed both that certain "motor vehicle violations" could carry a term of imprisonment, and that it was necessary to explicitly grant the board authority over petitions from convictions for such offenses. That expansion of authority would have been unnecessary if the legislature had believed that those particular convictions fell within the extant authority over petitions relating to "offenses against the state . . . ."

[14] See General Statutes § 14-10 (k) (disclosure of personal information from department of motor vehicles is class A misdemeanor); General Statutes § 14-52 (selling or repairing motor vehicle without license is class B misdemeanor); General Statutes § 14-62b (e) (selling used motor vehicle parts without recycler's license is class C misdemeanor); General Statutes § 14-65 (f) (selling motor vehicle at auction without license is class B misdemeanor); General Statutes § 14-100a (d) (5) (transporting child in motor vehicle without required restraint is class A misdemeanor); General Statutes § 14-103d (b) (violation of regulations regarding motor vehicle's using pressurized gas is class C misdemeanor); General Statutes § 14-106b (d) (operating motor vehicle without functioning odometer is class A misdemeanor); General Statutes § 14-106d (c) (selling or offering to sell fake air bag is class A misdemeanor); General Statutes § 14-213b (b) (operating motor vehicle with insufficient insurance coverage is class D felony); General Statutes § 14-223 (b) (failure to stop motor vehicle when signaled to do so by officer in police vehicle is class A misdemeanor and class C felony); General Statutes § 14-227k (c) (avoiding or tampering with motor vehicle ignition interlock device is class C misdemeanor).

[15] General Statutes § 53a-40f provides: "(a) A persistent operating while under the influence felony offender is a person who (1) stands convicted of a violation of section 53a-56b or 53a-60d and (2) has, prior to the commission of the present crime and within the preceding ten years, been convicted of a violation of section 53a-56b or 53a-60d or subsection (a) of section 14-227a or been convicted in any other state of an offense the essential elements of which are substantially the same as section 53a-56b or 53a-60d or subsection (a) of section 14-227a.

"(b) When any person has been found to be a persistent operating while under the influence felony offender, the court, in lieu of imposing the sentence authorized by section 53a-35a for the crime of which such person presently stands convicted, may impose the sentence of imprisonment authorized by said section for the next more serious degree of felony."

[16] General Statutes § 53a-56b (a) provides: "A person is guilty of manslaughter in the second degree with a motor vehicle when, while operating a motor vehicle under the influence of intoxicating liquor or any drug or both, he causes the death of another person as a consequence of the effect of such liquor or drug."

[17] General Statutes § 53a-60d (a) provides: "A person is guilty of assault in the second degree with a motor vehicle when, while operating a motor vehicle under the influence of intoxicating liquor or any drug or both, he causes serious physical injury to another person as a consequence of the effect of such liquor or drug."

[18] It is well settled that a law may not be classified as a crime, but nonetheless can be treated as such for purposes of the lesser included offense doctrine. See *State* v. *Kluttz*, 9 Conn. App. 686, 690, 521 A.2d 178 (1987). For similar reasons, the majority's reliance on a similar treatment of §§ 53a-56b and 53a-60d under § 14-227a (g) is undermined by this shared element. Section 14-227a (g) provides that a prior conviction under § 53a-56b or § 53a-60d can qualify as the "same offense" as § 14-227a for determining whether the defendant is a repeat offender and subject to harsher sentencing. See footnote 1 of this dissenting opinion. Although the majority claims that the

legislature must have considered a breach of § 14-227a to be "comparable to a felony involving a motor vehicle," by incorporating these two offenses into the § 14-227a sentencing provisions, the legislature has merely ensured that an individual convicted under a different statute in part for conduct identical to that prohibited by § 14-227a be treated as having violated § 14-227a.

[19] As this court previously has noted, there is nothing in the legislative history to § 1-2z to suggest that the legislature intended to overrule cases decided prior to the enactment of § 1-2z. See *Commission on Human Rights & Opportunities* v. *Sullivan*, 285 Conn. 208, 218–19 n.10, 939 A.2d 541 (2008).

[20] The majority suggests that reliance on *Kluttz* and its progeny is inappropriate, however, because the *Kluttz* decision relied on the "unique genealogy of § 14-222a." *Kluttz* also, however, relied on a textual analysis of the Penal Code definitions and related provisions in reaching its conclusion, provisions that equally are applicable to § 14-227a. While the majority does not dispute the correctness of *Kluttz* as it pertains to § 14-222a, they have not provided a textual basis for distinguishing §§ 14-222a and 14-227a in connection with the motor vehicle exception to the definition of offense under the Penal Code.

[21] In addition to the decisions discussed in this opinion, the majority points to this court's decision in *State* v. *Dukes*, 209 Conn. 98, 547 A.2d 10 (1988), as support for its construction. In *Dukes*, this court summarily stated in the course of discussing another issue that, "[o]perating a motor vehicle while under suspension [as prohibited by § 14-215] is a misdemeanor." Id., 124. Because the court did not discuss the basis of that conclusion, this court since has interpreted that statement merely as treating § 14-215 as a crime (misdemeanor) for the limited purpose relevant in *Dukes* and not as a determination that such a breach is classified under the Penal Code as a crime. See *State* v. *Guckian*, supra, 226 Conn. 199 (describing *Dukes* as having "concluded that a violation of § 14-215 was a crime for purposes of a search of the defendant's person without reaching the distinct question of whether a violation of § 14-215 is a crime for general classification purposes under § 53a-24 of the [P]enal [C]ode"). The principle that "[w]hat may or may not be a criminal offense for the purposes of a particular statutory categorization is not necessarily determinative of whether it is a criminal offense for [other] purposes"; (internal quotation marks omitted) *State* v. *Guckian*, supra, 198, quoting *State* v. *Kluttz*, supra, 9 Conn. App. 699; is, however, a settled principle of law. See, e.g., *Illinois* v. *Vitale*, 447 U.S. 410, 419, 100 S. Ct. 2260, 65 L. Ed. 2d 228 (1980) (for purpose of double jeopardy analysis, noncriminal traffic violation may be criminal "offense"). Accordingly, any prior decisions of this court and the Appellate Court that have treated a breach of § 14-227a or another motor vehicle statute as a crime for some specific limited purpose, when consistent with the policy informing that purpose, are entirely consistent with my decision today. Therefore, the majority's reliance on *Dukes* is misplaced, as that decision is consistent with my interpretation.

[22] See, e.g., General Statutes (1949 Rev.) § 2412 (predecessor to current § 14-227a, imposing possible penalty of six months imprisonment for first breach, up to one year for second or subsequent breaches).

[23] Indeed, at the time of passage of Public Act 80-438, the legislatively established blood alcohol level required for breach of § 14-227a was more than twice its current level. See General Statutes (Rev. to 1979) § 14-227a (blood alcohol level ten-hundredths of one percent).

[24] The fact that attitudes had been more lax about the treatment of drunk drivers similarly is reflected in our decisions in *Shore* v. *Stonington*, 187 Conn. 147, 444 A.2d 1379 (1982), and *Craig* v. *Driscoll*, 262 Conn. 312, 813 A.2d 1003 (2003). The former concluded that an action in negligence could not be maintained against a town police officer for the death of a person whose vehicle was hit by an intoxicated driver who the officer previously had stopped and let go because the officer owed no specific duty to the decedent to enforce the state's motor vehicle laws. *Shore* v. *Stonington*, supra, 151, 157. The court in *Craig* v. *Driscoll*, supra, 327–30, 339–40, recognized a common-law negligence action against a purveyor of alcohol for serving alcohol to an adult patron who, as a result of his intoxication, injures another and held that the statutory limitation on recovery under the Dram Shop Act, General Statutes § 30-102, was not the exclusive remedy.

[25] The commentary provides in its entirety: "Subsec. (a). This section defines the terms 'offense', 'crime', and 'violation'. 'Offense' is a general term which means a breach of state or local 'criminal' law—i.e., one that calls for imprisonment or fine for breach thereof. 'Crime' means either a

felony or a misdemeanor. 'Violation', which must be read in connection with section 53a-27, means an offense calling only for a fine for breach thereof. The concept of a 'violation', which is taken from the Model Penal Code, is new. Section 53a-24 makes clear that conviction of a violation does not 'give rise to any disability or legal disadvantage based on conviction of a criminal offense.' It is a new category of non-criminal offense; conduct which should be proscribed but conviction for which should in no way brand the offender a 'criminal.' Thus, for example, a person who has been convicted only of a violation can truthfully answer 'no' to the question: Have you ever been convicted of a crime?

"Subsec. (b). The definition of 'offense' in subsection (a) makes clear that it does not include motor vehicle infractions. The purpose of this provision is to except from the operation of the Code, except as provided in subsection (b), motor vehicle infractions. Subsection (b), however, provides that the sentencing principles enumerated in sections 53a-28 to 53a-44, inclusive, should apply to motor vehicle violations. Thus, a motor vehicle violator would have the limits of his sentence determined by the motor vehicle section, since his 'offense' would be an 'unclassified misdemeanor' within the meaning of section 53a-26 (c); but he would be sentenced under the principles and procedures of sections 53a-28 to 53a-44." Commission to Revise the Criminal Statutes, Penal Code Comments, Conn. Gen. Stat. Ann. (West 2007) § 53a-24, comment, pp. 454–55.

We note that, at the time this commentary was written, § 53a-24 did not expressly exclude "infractions" or "motor vehicle infractions" from the definition of offense; it simply excluded "motor vehicle violations." That fact and the commentary's references to "motor vehicle violations" lead us to assume that the commentary uses "motor vehicle infractions" synonymously with "motor vehicle violations." Because the commentary's use of the word "infraction" predated the statutory definition of that term in § 53a-27, we further assume that the authors of the commentary intended "infraction" to have its ordinary meaning; at that time, "the act of breaching or violation; infringement; a violation." The American Heritage Dictionary of the English Language (1969). Accordingly, we interpret "motor vehicle infractions" as encompassing all breaches of motor vehicle laws; that the phrase is apparently used synonymously with the term "motor vehicle violations" in the commentary only further supports our ultimate conclusion.

[26] The defendant also argues that a 1985 amendment to § 14-227a first inserted the word "offense"; see Public Acts 1985, No. 85-596, § 1; and did so essentially to codify the Appellate Session of the Superior Court's decision in *State* v. *Anonymous (1980-5)*, 36 Conn. Sup. 527, 531, 416 A.2d 168 (1980), which had concluded that a breach of § 14-227a is an "offense" within the meaning of § 53a-24. Because the term "offense" already was used in § 14-227a prior to that court's decision, and because the amendment was made five years and eleven amendments after the decision in *Anonymous (1980-5)*, we disagree that the 1985 amendment constituted a legislative endorsement of that decision.

[27] In the course of a debate over amendments to § 14-227a, for instance, the president pro tempore and chair of the Senate clarified a confusing statement made by another Senator on the distinction between a speeding violation and a conviction for operating under the influence, saying "whether it be a motor vehicle violation [speeding] or a drunken driving violation, it falls under the broad category of criminal offense." 28 S. Proc., Pt. 16, 1985 Sess., p. 5365, remarks of Senator Philip S. Robertson. The imprecision in this terminology is reflected in the fact that, even under the majority's construction, a motor vehicle violation would not be a criminal offense under the Penal Code.

[28] Accordingly, I am unpersuaded by the majority's argument that the mere increase in potential sentence indicates legislative intent that a second qualifying breach of § 14-227a subjects an individual to the full consequences of a felony conviction.

[29] Although the plaintiff has not made this argument, we recognize that a "convicted felon" status would, under General Statutes § 7-294d (c) (2), preclude him from serving as a police officer, and, under General Statutes § 29-28 (b), would preclude him from possessing a firearm. While we can understand the logic of attaching these collateral consequences for a second qualifying conviction of driving while intoxicated, these two consequences are overwhelmingly outnumbered by consequences that appear to lack any logical connection to the nature of a conviction under § 14-227a.

The majority argues, however, that it would yield an absurd result to treat a second qualifying breach of § 14-227a as a motor vehicle violation while

treating certain expressly designated motor vehicle crimes, which the majority apparently suggests are less blameworthy than a breach of § 14-227a, as crimes. I hesitate to substitute my own judgment for what is appropriately considered "criminal" for that of the legislature; I note that the legislature has attached severe penalties to a second breach of § 14-227a, and accordingly, I am unpersuaded by the majority's suggestion that such breaches are not punished appropriately without the attachment of felony status. Additionally, I would suggest that the express designation of some sections of the motor vehicle code as crimes; see footnote 14 of this dissenting opinion; supports the view that the absence of such a designation is both deliberate and meaningful.

[30] Among numerous other consequences by virtue of that felony conviction, the plaintiff could be precluded from acting as a sports agent; General Statutes § 20-559e; or as a wholesaler's salesman. General Statutes § 30-17b. The plaintiff also would be precluded from: serving as a juror; General Statutes § 51-217 (a); conducting a bazaar or raffle; General Statutes § 7-174; working as a "major contractor"; General Statutes § 20-341gg (b); working as a licensed pawnbroker; General Statutes § 21-40; working as a telecommunicator; see General Statutes § 28-30 (e); or working as a private detective. General Statutes § 29-154a.

[31] The majority suggests that the choice of sister jurisdictions to treat operating a motor vehicle while under the influence as a crime should weigh into our consideration. Ultimately, I am unpersuaded that the choices of other states in this area are relevant to the present question; the majority has not pointed to any state with a comparable motor vehicle exception in their laws, meaning that the question of classifying operating a motor vehicle while under the influence in other states would be, as a matter of statute, a far simpler exercise.